

**UNITED STATES OF AMERICA**

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## OPINION AND ORDER

By: James P. Jones

Defendant.

MR. DICKERT: Your Honor, just so you know, he has been in

federal custody since October. Will he get credit for that on his 24 month sentence?

THE COURT: The Bureau of Prisons administratively applies credit. That's up to the Bureau of Prisons by statute, and he will receive all such credit to which he is entitled under the statute. Thank you. You may be seated.

Thus, as stated by the court at the time, whether Smith receives credit for this jail time is up to the Bureau of Prisons and does not involve a clerical mistake by the court. As Smith suggests in his motion, the likely reason he has not received credit administratively is because his jail time was applied to another sentence. *See* 18 U.S.C.A. § 3585(b) (West 2000). In any event, the court has no jurisdiction to reduce Smith's sentence under Rule 36.

For these reasons, it is **ORDERED** that the Motion to Correct Clerical Error is DENIED.

ENTER: May 9, 2007

/s/ JAMES P. JONES  
Chief United States District Judge